

**FLATHEAD COUNTY PLANNING BOARD MEETING
MINUTES OF THE MEETING
MAY 16, 2006**

**CALL TO
ORDER**

A meeting of the Flathead County Planning Board was called to order at approximately 6:00 p.m. Board members present were Randy Toavs, Gordon Cross, Mike Mower, Gene Dziza, Don Hines, Kim Fleming, Frank Dekort, Barry Conger, and Kathy Robertson. Eric Giles and Jeff Harris represented the Flathead County Planning & Zoning Office.

There were approximately 22 people in the audience.

**PUBLIC
REVIEW**

Gene Dziza reviewed the public hearing process for the public.

**APPROVAL OF
MINUTES**

Dziza made a motion seconded by Fleming to approve the February 21, 2007 and April 11, 2007 meeting minutes as amended.

The motion was carried by quorum.

**PUBLIC
COMMENT
(not related to
agenda items)**

None.

APPENDIX B

Appendix B/Public Involvement Summary for the Flathead County Growth Policy. The Growth Policy and Appendix A were officially adopted on March 19, 2007. The Planning Board will consider the incorporation of Appendix B into the Growth Policy and may approve Appendix B by resolution. The appendix will then be forwarded to the Flathead County Commissioners for final action.

**MOTION TO
ADPOT
APPENDIX B**

Robertson made a motion seconded by Fleming to adopt Appendix B and forward a resolution to the County Commissioners.

**APPENDIX B
ROLL CALL**

On a roll call vote the motion passed 7-1 with Hines dissenting.

**PRELIMINARY
PLAT/
EAGLES
CREST PHASE
5-9
(FPP 07-10)**

A request by MT Eagle Acquisitions, LLC/MT Eagle Holdings, LLC, for Preliminary Plat approval of Eagle's Crest Subdivision, Phases V-IX, an 825 lot (739 single-family, 86 condominium, and 69 mixed-use) subdivision on 1368.52 acres. Beginning in 2010, platting of phases V-IX is expected to occur over an eight year period and build-out is expected to take approximately thirty years, ending in 2040. Lots in the subdivision are proposed to have public water and sewer systems. The property is located west of MT Highway 93, approximately one mile south of Lakeside.

**STAFF
REPORT**

Eric Giles reviewed Staff Report FPP 07-10 for the Board.

**BOARD
QUESTIONS**

Dziza asked about page two of the applicant's report.

Giles said the Staff needed a plan for the area; four of the phases are considered preliminary plats, so they all have to be reviewed as subdivisions. He said since they are phases the applicant can make small changes but not huge changes, which allows a certain amount of flexibility with a phasing plan. He said the applicant is tied into the plat.

Fleming asked if all council members from the Land Use Committee were at their meeting.

Giles said some of them abstained from voting but they were all there.

Fleming asked if the golf course would be private.

Giles said yes.

Fleming asked about Eagle's Crest having a business district.

Giles said there will eventually be a Lakeside Proper and Lakeside South. He said the phases are designed to serve people in the community and will be mixed-use housing. He said the services will be complimentary to the area.

Dziza said the cash-in-lieu normally goes to the Parks Department. He asked why Giles was recommending the cash go back into the project.

Giles said there would be public trail system in the subdivision.

Hines asked if there was any discussion of creating a PUD.

Giles said there could not be a PUD because the property is unzoned.

Hines asked if there was any chance of getting an extension from the applicant to clarify some of the issues.

Giles said Staff plans on working with the developer and the Lakeside Community for the revision of their neighborhood plan. He said the Steering Committee is comprised of citizens in the community.

Hines asked what the time frame would be to get the Neighborhood Plan up and going.

Giles said if it was under his time frame it would take around a year but the time frame will be decided by the council. He said Staff is short-handed right now but that doesn't stop the Steering Committee from working on it.

Robertson asked how many acres the golf course would be.

Giles didn't know.

Robertson asked why there wasn't a topographical map.

Giles showed a slide and said Staff wasn't able to get a topographical study done.

Dziza asked about a portion of the map.

Giles said there are many slopes in the area but Staff is concerned about the 30 percent slopes.

APPLICANT

Trevor Schafer, of Montana Eagle Development, said he appreciates working with the Planning Staff. He said every phase is in an unzoned area; the regulations do not allow for PUD's in unzoned areas so he came up with the phases and plat. When he started on the project he looked at Lakeside and considered what the community wants. He said the grand total is 940 lots on 2,267 acres with a density of 1 person per 2.41 acres and 600

acres of open space. He thinks there will be 180 to 220 acres for the golf course. He said for fire mitigation they annexed into the fire department area and did a public water system. He created fire safety zones in the middle of the development and negotiated with the Somers Fire Department finally coming to an agreement. He said defensible spaces were accomplished by fire breaks. Schaffer recommended North and South turn lanes to the Montana Department of Transportation (*MDOT*) but it's up to them to decide what's done with the lanes. He said the residents will most likely be seasonal. He said the neighborhood commercial stores will help mitigate traffic by making things accessible within the community for the residents. He said for environmental protection they are going to have public water and sewer. He did a thorough study of wildlife traffic and Fish, Wildlife, & Parks recommended turning fifteen lots into trails, which he did. He sought input from the schools and said the development will be extremely beneficial to the schools with almost no impact. He has taken everyone's suggestions and tried to make the development better. He said the property is not zoned and discussed lands being unsuitable for subdivision and the sloping condition. He discussed the sewer capacity and said the development will not be at full build-out for around 40 years. At full build-out, the development would require 800 hookups and would have onsite treatment plants.

Dziza asked if all of Eagles Crest had been annexed.

Schafer said phase 3 has been annexed.

Dziza thought there was a moratorium on hookups.

Schafer said there is a moratorium, but not for people who have talked to Lakeside Water and Sewer before the moratorium was put in place.

Hines asked if there had been any talk between Kalispell and Lakeside about coupling the two facilities together.

Schafer said that was discussed.

Robertson said one of the conditions stated there would be no fruit trees and eight foot fences would be required around gardens. She said putting a fence in front of a garden would not keep with the atmosphere of the development.

Schafer agreed and stated the residents can't have BBQ's either.

Robertson said some of the conditions don't match the covenants. She said she lives in an area with bears and advised the covenants adhere to more safety.

Dave DeGrandpre, of Land Solutions, said health and safety and lands unsuitable for subdivision is a big deal. The Staff Report states the land is unsuitable for subdivision. He discussed the fire hazard map and said the applicant has incorporated all fire safety suggestions into the application. He said in terms of fire safety, the safety experts have concluded the subdivision looks very good so he doesn't think Staff's statement is correct. He discussed the slopes over 30 percent. He said the application complies with the law so it shouldn't be penalized for not going above the law. He said the topography is clearly defined. He discussed predictable growth and said everyone wants to know what's coming "down the road". There will not be 1,000 homes being built all at once; it will happen over a 30-40 year build-out. He thinks there are some misinterpretations of the Growth Policy and Neighborhood Plan in the findings-of-fact.

AGENCIES

Tip Clark, Lakeside Water and Sewer, asked the Board if they had any questions.

Dziza asked if this property was affected by the moratorium.

Clark said it is not affected because the property was negotiated before the moratorium took place. He said Schafer has given up 200 hookups in a different development so Eagle's Crest would be equaled out. He thinks the project is doable and doesn't foresee any problems.

Fleming said she talked to the Board this morning and there was a different story.

Clark said the Board meeting was at 2 pm this afternoon and the hookups were decided then.

Mower asked if there are any wastewater treatment issues for the whole development.

Clark said no, but if there are any problems it will be 20-30 years down the road and the developers will pay for fixing whatever

problems arise.

**PUBLIC
COMMENT**

Tip Clark, 189 Lakeshore Drive, wanted to dispel some rumors and said he has no financial relationship with the development. He is friends with Schafer and vouches for his intent and integrity. He said without question the development is one of the finest he has seen in the County; it's first class. He said a project of this magnitude will have problems, but Montana Eagle Development has and will continue to address problems. He said the development is a model for others to follow.

Robert Ivy, Angel Point Road, owns property in Eagle's Crest. He wanted to share his take of what happened at the Lakeside Land Use Advisory Committee (*LLUAC*) and is pleased that Giles clarified the vote as being 3-1. He has been accessing Hwy 93 for 20 years and said it is a dangerous intersection. He knows the MDOT is looking for a way to mitigate the problem. He said the development will add more traffic, which would be good because it would force them to look at the road as an increasing problem. He said if slopes and fault lines were the basis for not building then Seattle and San Diego would never have been built.

Brent Hall, 197 Lakeside Blvd, would be happy tonight to see the plan finally come together. He thinks the planning office should be there to help people plan and build projects. He gets the feeling Staff has really worked with the developers. He said the only income in the Valley is from a tax base and this development would help the tax base immensely. He said if the Board wants to see some steep slopes they should look at Iron Horse and look at what Iron Horse has done for Whitefish. He discussed the wildlife on golf courses.

Tammy Blag, lives in Bigfork but works in Lakeside, supports the project. She commended Schafer on being able to build a 40-year plan where there has been no long-term planning. She is aware of the economic benefit to Lakeside and thinks everybody will benefit from the project.

Tammy Ivy, Angel Point, wanted to comment on the planning done for the project. She said over 2,000 acres are planned to be developed. She said the 30-40 year build-out will retain the rural nature of Lakeside and will make a good home for her and her family.

Gordon Emert, owner of Emert Construction, knows the integrity Schafer has and Eagle's Crest is a place he is proud to work. He said at peak time he has 20 employees work for him and a lot of them are fire department volunteers. He is fretful for the subdivisions that have come to the Flathead.

Mel Allen, Lakeside, has a daughter and granddaughter and thinks affordable housing is an issue in the Flathead. He is a resident of Eagle's Crest and has watched Schafer put in the roads and has seen the construction at the Marina. He applauded Schaffer for coming up with a 40-year plan.

Charles Lapp, 3230 Columbia Falls Stage, has been attending the Lakeside Community Council Meetings. He discussed Lakeside not having any North and South roads. He said just because some of the property has 30 percent slopes doesn't make the whole property unsuitable for subdivision. He discussed fire safety issues and said the concerns can be mitigated. He said the DEQ is in charge of drainage plans and are very strict.

Larry Tortino, works in the Eagle's Crest office, discussed the impact of employment the development would bring to Lakeside. She said local business and suppliers would gain a lot of revenue through Eagle's Crest. She said the development is a long-term plan with long-term benefits.

Bruce Young, Lakeside, thanked the Planning Board for their time and consideration. He is a member of the Lakeside Community Council and wanted to advise the Board about the project. He said the Council had very limited information when they voted. He said two abstained, one voted no, and three voted yes. He said the Lakeside Community Plan is going too be modified in a couple of months and this project would be a major change to Lakeside. He said the project will be bigger than Lakeside and will be a private community. He discussed affordable housing and said this project will not be affordable housing. He said the project started out as 60 homes, but now appears to be well over 1,000 homes. He said nothing should happen with the development until turn lanes are put in. He asked why the Board would approve the whole project when a preliminary plat is only good for three years.

**APPLICANT
REBUTTAL**

Schafer agreed there needs to be turning lanes and is trying to build the project to accommodate Lakeside resident's concerns.

Robertson asked if the 11 lots recommended by Fish, Wildlife, and Parks were eliminated.

Schafer said the lots were moved.

DeGrandpre said there was a comment that development should wait until the neighborhood plan is updated. He said development plans don't stop when other plans are being made.

**STAFF
REBUTTAL**

Giles discussed drainage reports and said drainage reports are subject to Staff's review. He said the bottleneck area of the development serves as vehicular hazard as well as a fire hazard.

Harris said Staff asked Eagle Development for a conceptual plan as to how they see the property developing, but didn't ask for a huge subdivision plan. He said there is a clear distinction between a plan that can be amended and a rigid plan. He is concerned that Staff doesn't have all the information and believes public should have a chance to review all information before a development is approved. He said it is important to have everything lined out ahead of time.

Mower asked what the Board is making a recommendation on.

Harris said it's a recommendation for the whole subdivision.

**MAIN MOTION
TO ADOPT
F.O.F.**

Dziza made a motion seconded by Toavs to adopt Staff Report FPP-07-10 as Findings-of-Fact.

**MOTION TO
ADOPT
AMENDED
F.O.F.**

Robertson made a motion seconded by Conger to adopt all of the amended findings of fact presented by the planning staff.

- ***Amend Finding of Fact #1:*** *This finding can be mitigated with the imposition of conditions 31 and 32.*
- ***Amend Finding of Fact #5 and #6:*** *This finding can be mitigated with the imposition of condition 33.*
- ***Proposed Finding of Fact #11:*** *The applicant does not comply with Policy 10.4 of the Flathead County Growth*

Policy because the subdivision proposes development on lands with slopes 30% or greater which pose an unreasonable risk to the public health, safety, and general welfare.

- **Proposed Finding of Fact #12:** *The applicant does not comply with Flathead County Subdivision Regulations Section 3.2 because the design of the subdivision does not show satisfactory building sites which are properly related to topography and does not demonstrate how the design shall preserve the natural drainage, existing top soil, trees, natural vegetation, wildlife and fish habitats. However, this finding can be mitigated with the imposition of conditions 11, 19, 26, 31, and 34.*

Conditions

- **Proposed Condition #31** – *Prior to final plat approval the applicant shall develop a parks and trails plan throughout all phases of the Eagle's Crest Development and terminating at Ben Williams Park and the nearest Bonneville Power Administration easement. The applicant shall show recorded easements within each phase of the Eagle's Crest Development. [FCSR 3.21 and 3.8]*
- **Proposed Condition #32** – *Cash-in-lieu of parkland funds shall be "earmarked" for construction of all trails in the Eagle's Crest Development. [76-3-621, MCA]*
- **Proposed Condition #33** – *The applicant shall submit a completed preliminary plat that conforms to all requirements of Appendix A of the Flathead County Subdivision Regulations. The preliminary plat shall be approved by the Flathead County Planning and Zoning Office. [FCSR, Appendix A]*
- **Proposed Condition #34** – *The applicant shall develop a watershed management plan prepared by a land use planner, licensed hydrologist, and a licensed engineer.[FCSR, 3.2]*

**AMENDED
F.O.F ROLL
CALL**

On a roll call vote the motion passed 5-3 with DeKort, Hines, and Fleming dissenting.

**MOTION TO
AMEND F.O.F.
2**

Dziza made a motion seconded by Conger to amend Finding-of-Fact # 2 to state: *The subdivision does not comply with Policies 16.4 and 23.6 of the Flathead County Growth Policy **because of the area in the proposed subdivision that is** covered by steep slopes and two accesses onto US 93.*

The motion was rescinded.

**BOARD
DISCUSSION**

The board discussed the issue of slopes and accesses.

**MOTION TO
DELETE F.O.F
2**

Conger made a motion seconded by Mower to delete Finding of Fact # 2. *The subdivision does not comply with Policies 16.4 and 23.6 of the Flathead County Growth Policy because of steep slopes and two accesses onto US 93.*

**DELETE
F.O.F. # 2
ROLL CALL**

On a roll call vote the motion failed on a tie vote 4-4 with Robertson, Hines, Fleming, and DeKort dissenting.

**MAIN MOTION
ROLL CALL
TO ADOPT
F.O.F.**

On a roll call vote motion the failed 4-4 with Conger, Fleming, DeKort, and Robertson dissenting.

**MOTION TO
RECOMMEND
DENIAL**

Fleming made a motion seconded by Hines to recommend denial of the subdivision to the Flathead County Commissioners.

**DENIAL ROLL
CALL**

On a roll call vote the motion passed 6-2 with Conger and Mower dissenting.

**MOTION TO
FORWARD A
LETTER**

Fleming made a motion seconded by Robertson to forward a letter the County Commissioners with the following concerns:

- 1. Traffic onto US 93 and the "Bottleneck" that blocks half of the subdivision.*
- 2. Fire hazard related to the roads and two accesses into and out of the subdivision.*
- 3. Storm water runoff.*

4. *Blocking wildlife corridors.*
5. *Rifle ranges/trap shooting.*

LETTER ROLL CALL On a roll call vote the motion passed 6-3 with Mower, Conger, and Toavs dissenting.

OLD BUSINESS None.

NEW BUSINESS Fleming discussed an article in the Daily InterLake.

Harris handed out the amended Bylaws.

The Board discussed the projects coming up in the next couple months.

The Board discussed how to amend Findings-Of-Fact and how to make recommendations to the Commissioners.

ADJOURNMENT The meeting was adjourned at approximately 9:30 p.m. on a motion by Robertson seconded by DeKort. The next meeting will be held at 6:00 p.m. on May 23, 2007.

Gene Gziza, President

Kayla Kile, Recording Secretary

APPROVED AS SUBMITTED/CORRECTED: 6/20/07